



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2015-0278]

Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision to regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 1.219, "Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors." This guidance has been updated to clarify how the guidance applies to emergency plan changes at facilities that have certified permanent cessation of operations.

DATES: Revision 1 to RG 1.219 is available on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please refer to Docket ID NRC-2015-0278 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0278 . Address questions about NRC dockets to Carol Gallagher; telephone: (301) 415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Document collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 1 to Regulatory Guide 1.219, and the regulatory analysis may be found in ADAMS under Accession No. ML16061A104 and ML15054A368 respectively.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 1 of RG 1.219 was issued with a temporary identification of Draft Regulatory Guide, DG-1324. This revision of the guide (Revision 1) addresses how the staff regulatory guidance applies to emergency plan changes at facilities that have certified permanent cessation of operation under § 50.82 of title 10 of the *Code of Federal Regulations* (10 CFR) , "Termination of License," or § 52.110, "Termination of License," as applicable. The NRC identified the need for this clarification because of the inappropriate application of the § 50.54(q) change process at sites that had permanently ceased operations in 2013. In addition, the NRC made some clarifications and format changes that did not change the intent of the guidance.

II. Additional Information

The NRC published a notice of the availability of DG-1324 in the **Federal Register** on December 24, 2015 (80 FR 80396) for a 60-day public comment period. The public comment period closed on February 22, 2016. Public comments on DG-1324 and the NRC staff responses to the public comments are available in ADAMS under Accession No. ML16061A119.

III. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Revision 1 of RG 1.219 describes methods that the staff of the NRC considers acceptable for nuclear power reactor licensees to change their emergency preparedness plans. Issuance of this RG does not constitute backfitting as defined in § 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the “Implementation” section of the RG, the NRC has no current intention to impose this RG on holders of current operating licenses or combined licenses. Moreover, explanations of the process by which a licensee makes changes to its emergency plan, provided in response to misinterpretations of the NRC’s regulations by licensees, do not constitute modifications of or additions to systems, structures, components, or design of a facility; or the procedures or organization required to design, construct or operate a facility within the meaning of § 50.109(a)(1). Accordingly, the issuance of this regulatory guide does not constitute “backfitting” as defined in § 50.109(a)(1) and is not otherwise inconsistent with the applicable issue finality provisions in 10 CFR part 52.

Regulatory Guide 1.219 may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final RG, as well as future applications for operating licenses and combined licenses submitted after the issuance of the RG. Such action would not constitute backfitting as defined in § 50.109(a)(1) or be

otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52 because such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 21 day of July, 2016.

For the Nuclear Regulatory Commission.

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